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97TH CONGRESS
2d Session

SENATE

EXECUTIVE REPT.
No. 97-60

ORIGINAL

# ESTATE AND GIFT TAX TREATY WITH THE REPUBLIC OF AUSTRIA

COMPLETED

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## REPORT

OF THE

## COMMITTEE ON FOREIGN RELATIONS
## UNITED STATES SENATE

ON

TREATY DOC. NO. 97-26

ESTATE AND GIFT TAX TREATY WITH THE REPUBLIC OF AUSTRIA

Y1.1/6:97-60

SEPTEMBER 24 (legislative day SEPTEMBER 8), 1982.—Ordered to be printed

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**UNITED STATES SENATE**

**97th Congress, 2d Session**

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# ESTATE AND GIFT TAX TREATY WITH THE REPUBLIC OF AUSTRIA

SEPTEMBER 24 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

## REPORT

[To accompany Tr. Doc. No. 97-26]

The Committee on Foreign Relations, to which was referred the Estate and Gift Tax Treaty with the Republic of Austria (Austria) for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates of deceased persons and on gifts (Treaty Document Number 97-26), having considered the same, reports favorably thereon without reservation and recommends that the Senate give its advice and consent to ratification thereof.

## I. PURPOSE

There is presently no estate and gift tax treaty in force between the United States and Austria. The purpose of the proposed estate and gift tax treaty between the United States and Austria is to alleviate double taxation on the estates and gifts of citizens and domiciliaries of both countries by modifying the jurisdictional rules of estate and gift taxation with respect to these individuals and to prevent evasion of taxes on estates, gifts and inheritances.

## II. BACKGROUND

The proposed treaty was signed by the United States and Austria on June 21, 1982. The treaty was transmitted to the Senate for advice and consent to ratification on August 10, 1982.

## III. SUMMARY

The purposes of the proposed estate, gift, and generation-skipping transfer tax treaty between the United States and Austria are to alleviate double taxation on the estates, gifts, and generation-skipping transfers of citizens and domiciliaries of those countries by modifying the jurisdictional rules of such taxation with respect to these individuals and to prevent evasion of taxes on estates, gifts, inheritances, and deemed transfers. The treaty modifies the jurisdictional rules in two ways.

First, an individual's country of domicile is given primary tax jurisdiction over the estates, gifts, and deemed transfers of its domiciliaries (Article 7). However, real property and business property located in the other country ("situs country") are subject to primary tax jurisdiction in the situs country (Articles 5 and 6).

The second modification is that in situations where both countries under their own domestic laws consider an individual to be a domiciliary, the individual will be treated as having only one country of domicile for purposes of the taxes covered by the treaty. The treaty sets forth several criteria to determine which country is the country of domicile (Article 4).

In situations where both countries retain the right to tax transfers the treaty generally provides for relief from double taxation by the country of domicile or citizenship (Article 9). Where the United States is the country of domicile or citizenship, relief is granted through a foreign tax credit. Where Austria is the country of domicile, relief is granted by Austria exempting the property from tax.

The treaty contains the standard provision (the "saving clause") contained in U.S. tax treaties that the United States retains the right to tax its citizens as if the treaty had not come into effect (Article 9). In addition, it contains the standard provision that the treaty will not be applied to deny any taxpayer any benefits he would be entitled to under the domestic law of either country or under any other agreement between the two countries (Article 1); that is, the treaty will only be applied to the benefit of taxpayers.

The treaty also contains standard nondiscrimination provisions and provides for exchanges of information and administrative cooperation between the tax authorities of the two countries to avoid double taxation and prevent fiscal evasion.

## IV. DATE OF ENTRY INTO FORCE AND TERMINATION

***Entry into Force***

The proposed treaty is subject to the ratification procedures of each country and requires that the instruments of ratification be exchanged in Washington as soon as possible. The treaty will enter into force on the first day of the third month after the month of exchange of instruments of ratification and will apply to estates of persons dying, gifts made, and generation-skipping transfers deemed made on or after that date.

***Termination***

The proposed treaty will continue in force indefinitely. However, either country may terminate the treaty after it has been in force for five years if at least six months prior notice has been given. If terminated, the treaty will not apply to estates of persons dying, gifts made, or generation-skipping transfers deemed made after the December 31 next following the date of termination specified in the notice of termination.

## V. COMMITTEE ACTION

The Committee on Foreign Relations considered the proposed treaty on September 21, 1982 and order it favorably reported with the recommendation that the Senate give its advise and consent to ratification of the treaty.

## VI. COMMITTEE COMMENTS

No significant issues arose during the consideration of the treaty by the Committee on Foreign Relations.

## VII. BUDGET IMPACT

The Committee estimates that the effect of the proposed treaty on budget receipts will be negligible.

In accordance with the objectives of section 403 of the Budget Act, the Committee advises that the Director of the Congressional Budget Office has examined the Committee's budget estimate and agrees that the effect on budget receipts will be negligible. In keeping with the spirit of section 308(a) of the Budget Act, and after consultation with the Director of the Congressional Budget Office, the Committee states that the treaty does not provide any new budget authority or any new or increased tax expenditures.

## VIII. EXPLANATION OF PROPOSED TAX TREATY

A detailed, article-by-article explanation of the proposed estate and gift tax treaty between the United States and Austria is presented below.

### *Article 1. Scope*

This Article describes the individuals who may claim the benefits of the proposed treaty. The proposed treaty will apply to the estate of any individual person who was a domiciliary of either or both countries at the time of his death. Similarly, the proposed treaty applies to all gifts made by donors who were domiciliaries of either or both countries at the time the gift was made. The treaty will also apply to generation-skipping transfers of deemed transferors who, at the time of the deemed transfer, were domiciliaries of either or both countries.

The proposed treaty will not in any way restrict any exclusion, exemption, deduction, credit, or other allowance granted by the internal law of either country or by any other agreement between them. Thus, the treaty cannot cause any person to be taxed at a higher rate than he would be under the Code.

### *Article 2. Taxes Covered*

The proposed treaty generally applies to taxes on gratuitous transfers imposed by the United States and Austria. In the case of the United States, the proposed treaty applies to the Federal estate tax, gift tax, and the tax on generation-skipping transfers. In the case of Austria, the proposed treaty applies generally to the inheritance and gift tax.

Austria imposes an inheritance tax on property transferred at death where either the heir or decedent has a residence or customary place of abode in Austria. Similarly, Austria imposes a tax on gifts where either the donor or donee has a residence or customary place of abode in Austria. Otherwise Austria will impose its inheritance or gift tax only when the subject property is located in Austria.

The proposed treaty provides that it will apply to any similar taxes on transfers and deemed transfers that either country may impose after the date of signature of the treaty (June 21, 1982). The competent authorities of the two countries must notify each other of any changes that occur in their respective tax laws and of any official published material concerning the application of the treaty, including explanations, regulations, rulings, and judicial decisions.

As is true of other U.S. estate tax treaties, the proposed treaty does not generally apply to death or gift taxes imposed by state or local governments. However, the nondiscrimination Article (Article 10) applies to all taxes of every kind imposed by the United States, Austria, and their political subdivisions. The provisions relating to exchange of information in Article 12 apply to gratuitous transfer taxes and to all other taxes (including income taxes) imposed by the United States and Austria.

***Article 3. General Definitions***

The standard definitions found in most U.S. estate and gift tax treaties are contained in the proposed treaty.

The proposed treaty defines the term "United States" to include the States and the District of Columbia but to exclude Puerto Rico, the Virgin Islands, Guam, and the other U.S. possessions and territories. Unlike certain estate tax treaties, the proposed treaty does not include in the definition of the United States the territorial sea of the United States or the seabed and sub-soil of the submarine areas adjacent to the coast of the United States over which the United States exercises sovereign rights for the purposes of exploration and exploitation of natural resources (i.e., the continental shelf).

The treaty defines Austria to mean the Republic of Austria.

The U.S. competent authority is the Secretary of the Treasury or his delegate. The Austrian competent authority is the Federal Minister of Finance.

The proposed treaty also contains the standard provision that unless the context otherwise requires or the competent authorities of the two countries establish a common meaning, undefined terms are generally to have the meaning which they have under the applicable tax laws of the country applying the treaty.

***Article 4. Fiscal Domicile***

The concept of domicile is important because under the proposed treaty the country of domicile has the primary tax jurisdiction over all property transferred other than the property subject to situs taxation. The threshold test for determining the country of domicile is the domestic laws of each country. However, in those situations where both countries would treat an individual as a domiciliary, the treaty sets forth rules for establishing the country of domicile for purposes of the taxes covered by this treaty.

The proposed treaty provides that a person will be a domiciliary of the United States if he is a "resident" of the United States. Article 3(2) of the treaty states that terms not defined in the treaty are defined by the estate and gift tax law of the country to which the term applies. Since the term "resident," as it applies to U.S. persons, is not defined in the treaty, recourse to U.S. estate and gift tax law is necessary to determine whether a person is a U.S. resident. Under U.S. law, a person is generally a resident of the United States if he had his domicile in the United States at the time of his death or at the time of the making of a gift. (Treas. Regs. §§ 20.0–1(b)(1) and 25.2501–1(b).)

The treaty provides that a person will be a domiciliary of Austria if he has his domicile (*Wohnsitz*) or habitual abode (*gewöhnlicher Aufenthalt*) in Austria.

To provide relief from double taxation where the individual is considered domiciled in both countries, the proposed treaty provides a series of rules designed to establish a single country of domicile for the individual for purposes of the taxes covered by the treaty. The country so selected will then have the primary tax jurisdiction with respect to the worldwide estate of the decedent or with respect to his worldwide gifts, other than real property and assets of a permanent establishment or a fixed base situated in the other country. As described below, these rules are based on the concept that primary tax

jurisdiction should be exercised either by the country of nationality, if the dual domicile individual has not been resident in the other country for a substantial period of time prior to his death or the making of the gift, or by the country in which he has his most significant contacts if the nationality test is not determinative.

Under the first of these rules, if the individual is a citizen of one country and not a citizen of the other country and has been domiciled in that other country for less than five years (including temporary absences) during the preceding ten-year period, then the individual will be considered a domiciliary of the country of his citizenship. Under this rule, for example, Austria may not tax the estate or gifts of a U.S. citizen and domiciliary who has been domiciled in Austria for less than five years as if the U.S. citizen were an Austrian domiciliary. (This rule is reciprocal.) If, however, the individual has been domiciled in the country of which he is not a citizen for five or more years out of the ten-year period his domicile for purposes of the treaty would be determined under the tie-breaker rules described below. The five out of ten-year period is shorter than the seven out of ten-year period in the U.S. model treaty.

It is contemplated that this five-year rule will resolve most dual domicile situations. However, if a dual domicile problem still remains after application of this rule, the proposed treaty provides four additional tie-breaker rules to determine domicile. The rules (applied in the order presented) provide that the individual will be considered domiciled in the country (1) in which he had a permanent home available to him, (2) in which his personal and economic relations were closer (center of vital interests), (3) in which he had a habitual abode, or (4) of which he was a citizen. In cases where an individual's domicile cannot be determined by these tests, then the competent authorities of the countries are to settle the question by mutual agreement.

***Article 5. Real Property***

Under the proposed treaty, real property owned by a nondomiciliary is one of the two types of property over which the situs country, as opposed to the country of domicile, has primary tax jurisdiction. The other is assets of a permanent establishment or fixed base (Article 6).

The determination of whether an item of property is real property is to be made under the laws of the country in which the property is located. Real property is specifically defined to include:

1. Property accessory to real property;
2. Livestock and equipment used in agriculture and forestry;
3. Rights to which the provisions of general law respecting landed property apply;
4. Usufruct of real property; and
5. Rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources.

Real property does not include ships, boats, or aircraft.

***Article 6. Business Property of a Permanent Establishment and Assets Pertaining to a Fixed Base Used for the Performance of Independent Personal Services***

Under the proposed treaty, the second type of property owned by a nondomiciliary over which the situs country has primary tax jurisdic-

tion is the business assets of such person's permanent establishment which are located in the situs country and the assets pertaining to a fixed base of such person which are situated in that country and are used for the performance of independent personal services. The real property of either enterprise may be taxed by the country in which it is situated, as provided in Article 5.

The proposed treaty contains a definition of the term "permanent establishment" which is similar to the definition found in recent U.S. income tax treaties, the U.S. model and the O.E.C.D. model.

Generally, any fixed place of business through which a person engages in a trade or business is considered a permanent establishment. A permanent establishment includes a branch, office, factory, workshop, mine, oil or gas well, quarry, or any other place of extraction of natural resources. A permanent establishment also includes any building site or construction or installation project, or an installation or drilling rig or ship being used for the exploration for or development of natural resources, but only if it has remained in the country for more than 12 months.

This general rule is modified by providing that a fixed place of business which is used for certain activities specified in the treaty will not be considered a permanent establishment. These activities include, for example, the warehousing of goods for purposes of storage, display, or delivery, or for processing by another person. They also include maintenance of a fixed place of business for the purpose of purchasing merchandise or collecting information, or for carrying on activities of a preparatory or auxiliary character.

***Article 7. Property Not Expressly Mentioned***

This article sets forth the general treaty rule that the country of domicile, as determined under the treaty, has the primary tax jurisdiction over the transfers of its domiciliaries, other than the property specifically reserved for situs taxation. The proposed treaty generally provides that property (other than real property (Article 5) and business assets (Article 6) located in the treaty country that is not the country of domicile) will be subject to tax only in the country of domicile of the decedent, donor, or deemed transferor. Thus, tangible personal property not connected with a business will be subject to tax only in the country of domicile, regardless of location at the time of transfer or deemed transfer. Similarly, stock, debt obligations, and other intangible personal property not connected with a business will be subject to tax only in the country of domicile, regardless of the identity of any issuer or the physical location of any instrument evidencing the intangible property.

However, this rule of exclusive jurisdiction to tax in the country of domicile does not apply if the domiciliary is a citizen of the United States or (in certain cases) expatriated himself to avoid U.S. tax (see Article 9). Since the United States imposes its tax on the basis of citizenship as well as domicile, there is still the possibility of double taxation if an individual is a U.S. citizen and an Austrian domiciliary. This double taxation is alleviated under the tax credit structure in Article 9.

If the laws of the United States and Austria conflict as to whether a property right or interest falls within Article 5 (real property),

Article 6 (business assets), or this Article, the law of the country not the domicile of the transferor or deemed transferor will govern as to that issue.

***Article 8. Deductions and Exemptions***

Having generally granted primary taxing jurisdiction to the situs country for real property (Article 5) and business assets (Article 6), and to the country of domicile for other property, the proposed treaty generally allocates deductions for debt on the basis of the relationship (or lack thereof) between the debt and specific property.

The proposed treaty provides that a deduction or reduction in the taxable value of property shall be allowed for debts especially securing real property subject to situs taxation under Article 5. In addition, a deduction or reduction in the value of real property is allowed for unsecured debts incurred for the acquisition, conversion, repair or upkeep of such real property.

For business assets (Article 6), a deduction or reduction is allowed for debts pertaining to the permanent establishment or fixed base. These rules, allowing debts to reduce the value of property they secure or affect, differ from the rules of the Internal Revenue Code and the U.S. model treaty, which provide that only nonrecourse debts specifically reduce the value of a nondomiciliary's property, while other debts reduce worldwide assets proportionately.

To the extent that debt that is deducted from (or that reduces the value of) specific real property or business assets in the situs country exceeds the value of that property or those assets, it is deducted from the value of any other property taxable by that situs country. Debts not deductible under the treaty from the value of real property or business assets are deducted from the value of all other property (described in Article 7), which is taxable by the country of domicile.

Debts not deducted in any of the above ways from the value of property in the country of primary taxing jurisdiction are to be deducted from the value of property liable to tax in the other country.

If a taxpayer deducts any debt in accordance with the above treaty method, he may not use other rules found in the internal law of the United States or Austria to compute other debt deductions. In effect, the nondomiciliary transferor may choose between the treaty rules and the Internal Revenue Code rules for deductions, but must choose one set of rules exclusively.

Unlike the U.S. Model Estate and Gift Tax Treaty and other recent U.S. estate and gift tax treaties, the proposed treaty does not provide special rules for the deduction of charitable gifts to foreign entities or for a marital deduction. A marital deduction was not considered necessary because Austria's tax rate on transfers to a surviving spouse is low. A charitable deduction was not provided for because of Austria's policy never to permit a deduction for transfers to foreign charities.

***Article 9. Methods for Elimination of Double Taxation***

The proposed treaty preserves the right of the United States to tax its citizens no matter where they are domiciled. Consistent with the Internal Revenue Code, the treaty also preserves the right of the United States to tax former citizens whose loss of citizenship had as one of its

principal purposes the avoidance of tax, including the avoidance of Federal income tax, but only for a period of ten years following the loss (secs. 2107 and 2501(a)(3)). Thus it preserves the general United States rule of worldwide taxation of citizens and residents. These rules generally do not apply to restrict the credit provisions (Article 9), the nondiscrimination provisions (Article 10), and the mutual agreement provisions (Article 11).

In general, double taxation is avoided because the United States allows a credit for taxes paid to Austria on property subject to situs taxation in Austria and because Austria exempts from taxation property that is subject to situs taxation in the United States.

Under the treaty, the United States is obligated to grant a credit against its estate, gift or generation-skipping transfer tax imposed on a U.S. citizen or domiciliary in two cases.

First, the United States will allow a credit against its tax for taxes paid to Austria on the transfer of property where, under the proposed treaty, the property is subject to situs taxation in Austria (Articles 5 and 6). The credit is to be calculated according to U.S. law, and is not to exceed the U.S. tax attributable to the property.

Second, the United States will grant a credit for Austrian inheritance or gift taxes paid on account of a U.S. citizen's domicile in Austria at the date of his death, gift, or deemed transfer. However, the credit is not available for Austrian taxes imposed on the transfer of U.S. situs real estate or business property taxable by the United States under Articles 5 or 6. Thus, the United States retains primary taxing jurisdiction over real property (Article 5) and business assets (Article 6) located in the United States. Again, the credit cannot exceed the U.S. tax attributable to the property taxed by Austria. The credit is generally not available in the case of a former U.S. citizen whose loss of citizenship had as one of its principal purposes the avoidance of U.S. tax.

In order to avoid double taxation, the United States will take into account in allowing credits taxes imposed by Austria on prior gifts of the decedent where the property is in the taxable estate of the United States.

Austria will eliminate double taxation of its domiciliaries by exempting certain transfers from tax. Real property and assets of a permanent establishment or fixed base, which are subject to situs taxation in the United States as provided for in the proposed treaty, will be exempt from tax in Austria. Moreover, Austria will exempt from taxation property (except real property and business assets located in Austria) previously subject to tax in the United States on a prior gift or deemed transfer. However, exempt property may be taken into account in calculating the amount of tax on any remaining property which is subject to Austrian taxation (i.e., an exemption with progression).

Under the Internal Revenue Code, a claim for credit or refund of U.S. taxes by reason of the payment of foreign death taxes generally must be made within four years from the date the return was filed. The proposed treaty provides a period of limitation during which claims for credit or refund of taxes based on the provisions of the treaty may be made which, in some cases, may be longer than that allowed by the

Internal Revenue Code. It is provided that a claim for a credit or refund of taxes based on the provisions of the treaty must be made within two years from the final determination and payment of a tax for which a credit is claimed under the treaty (provided the determination and payment occur within ten years from the date of the decedent's death, the date of the gift, or the date of the deemed transfer). The competent authorities may extend the ten year limitation if circumstances prevented the determination of the tax within that ten-year period.

The proposed treaty follows the approach of other U.S. estate tax treaties and provides that any refund based on the provisions of the treaty is to be made without interest.

***Article 10. Nondiscrimination***

The proposed treaty contains a comprehensive nondiscrimination provision relating to all taxes of every kind imposed at the national, state, or local level. (See Article 2(3).) It is similar to provisions which have been embodied in other recent U.S. tax treaties. The purpose of the nondiscrimination provision is to prohibit a country from using its tax system to discriminate against residents of the other country.

Under this provision, neither country can discriminate by imposing more burdensome taxes (or other requirements connected with taxes) on citizens of the other country than it imposes on its own citizens who are in the same circumstances. The provision applies to citizens who are not domiciled in a contracting State. For this purpose, a U.S. citizen not domiciled in the United States is not in the same circumstances as an Austrian citizen not domiciled in the United States, because the U.S. citizen is taxed by the United States on his worldwide transfers and income while the Austrian citizen is not.

Similarly, neither country may impose more burdensome taxation on a corporation wholly or partly owned by individual residents of the other country than it would impose if those owners were its residents.

***Article 11. Mutual Agreement Procedure***

The proposed treaty contains the standard mutual agreement provision which authorizes the competent authorities of the United States and Austria to consult together to attempt to alleviate individual cases of double taxation or cases of taxation not in accordance with the proposed treaty.

Under the proposed article a person who considers that the action of the countries or either of them will cause him to pay a tax not in accordance with the treaty may present his case to the competent authority of the country of which he is a citizen or resident. The presentation must be made within one year after a claim, under the proposed treaty, has been finally settled or rejected. The competent authority then makes a determnation as to whether or not the claim has merit. If it is determined that the claim does have merit, and if the competent authority cannot unilaterally solve the problem, that competent authority endeavors to come to an agreement with the competent authority of the other country to eliminate taxation which is not in accordance with the provisions of the treaty.

The provision requires the waiver of the statute of limitations of either country so as to permit the issuance of a refund or credit notwithstanding the statute of limitations. The provision, however, does not authorize the imposition of additional taxes after the statute of limitations has run.

The competent authorities are also directed to resolve any difficulties or doubts arising as to the application of the convention. Under this authority, the Internal Revenue Service from time to time issues rulings defining terms in a treaty.

The treaty authorizes the competent authorities to communicate with each other directly for purposes of reaching an agreement in the sense of the mutual agreement provision. It also authorizes them to meet together for an oral exchange of opinions. These provisions make clear that it is not necessary to go through normal diplomatic channels to discuss problems arising in the application of the treaty and also removes any doubt as to restrictions that might otherwise arise by reason of the confidentiality rules of the United States or Austria.

***Article 12. Exchange of Information***

This article forms the basis for cooperation between the two countries in their efforts to deal with avoidance or evasion of their respective taxes and to enable them to obtain information so that they can properly administer the treaty.

The proposed treaty provides for the exchange between the countries of tax-related information and information necessary to carry out the provisions of the proposed treaty or the tax laws of one of the countries, insofar as its taxation is not contrary to the proposed treaty. The exchanges are to be both spontaneous and upon request. The information is not limited to information about the transfer taxes covered in the proposed treaty; this exchange of information provision applies to all taxes (including income taxes) imposed by the United States and Austria. This provision does not apply to political subdivisions of the two countries, however.

Information exchanged is to be treated as secret in the same manner as information obtained under the domestic laws of the receiving country. Such information, however, may be disclosed to persons involved in the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to, or the oversight of the administration of the taxes to which the Article applies. Accordingly, it is clear that the appropriate committees of Congress and their agents, in the exercise of their oversight responsibilities, could have access to information obtained under the treaty.

The proposed treaty contains narrow limitations on the obligations of the countries to supply requested information. A country is not required to carry out administrative measures contrary to its law or administrative practice or the law or administrative practice of the other country, to supply particulars not obtainable under its laws or in the normal course of administration, or to supply information that would disclose a trade secret or the disclosure of which would be contrary to public policy.

The proposed treaty provides that a country receiving a request will endeavor to obtain the information requested as if its own taxation were involved. Upon specific request of the competent authority

of the other country, a requested country is to produce depositions of witnesses and authenticated copies of original documents to the extent obtainable to enforce its own tax laws.

The proposed treaty allows each country to use the mails to deliver documents to private parties in the other country. The treaty does not override U.S. or Austrian laws that may require a different form of delivery, however.

***Article 13. Diplomatic Agents and Consular Officials***

The proposed treaty provides that its provisions are not to affect the fiscal privileges which diplomatic and consular officials enjoy under the general rules of international law or the provisions of special agreements. Moreover, the proposed treaty shall not apply to officials of international organizations or to members of a diplomatic mission or consular post of a third country who are not considered domiciled in either country for purposes of estate, inheritance, gift, or generation-skipping transfer tax liability.

***Article 14. Entry into Force***

The proposed treaty is subject to the ratification procedures of each country and requires that the instruments of ratification be exchanged in Washington as soon as possible. The treaty will enter into force on the first day of the third month after the month of exchange of instruments of ratification and will apply to estates of persons dying, gifts made, and generation-skipping transfers deemed made on or after that date.

***Article 15. Termination***

The proposed treaty will continue in force indefinitely. However, either country may terminate the treaty after it has been in force for five years if at least six months prior notice has been given. If terminated, the treaty will not apply to estates of persons dying, gifts made, or generation-skipping transfers deemed made after the December 31 next following the date of termination specified in the notice of termination.

## IX. TEXT OF THE RESOLUTION OF RATIFICATION

*Resolved* (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Estates, Inheritances, Gifts, and Generation-Skipping Transfers, signed at Vienna on June 21, 1982 (Treaty Document 97-26).



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